

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JEROME MCDAVIS, )  
Petitioner ) Civil Action No. 05 - 1129  
vs. ) Judge Gary L. Lancaster  
RONALD T. VAUGHN, Superintendent, )  
Respondent. )

**MEMORANDUM ORDER**

The above captioned Petition was received by the Clerk of Court on August 12, 2005, and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The magistrate judge's Report and Recommendation (Doc. No. 18), filed on March 7, 2006, recommended that the Petition for Writ of Habeas Corpus be dismissed as a successive petition for which Petitioner had not demonstrated the necessary certification from the Court of Appeals for the Third Circuit as required under 28 U.S.C. § 2244(b)(3). Service was made on Petitioner and on counsel of record for Respondents. The parties were informed that in accordance with Magistrates Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.1.4(B) of the Local Rules for Magistrates, that they had ten (10) days to file any objections. Petitioner filed Objections to the Report and Recommendation on March 17, 2006 (Doc. No. 19).

After review of the pleadings and the documents in the case, together with the report and recommendation and objections, the following order is entered:

AND NOW, this 31<sup>st</sup> day of MARCH, 2006;

**IT IS HEREBY ORDERED** that the Petition for Writ of Habeas Corpus is  
**DISMISSED.**

**IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**.

**IT IS FURTHER ORDERED** that the Report and Recommendation (Doc. No. 18) of  
Magistrate Judge Lenihan, dated March 7, 2006, is adopted as the opinion of the Court.



Gary L. Lancaster  
United States District Judge

cc: The Honorable Lisa Pupo Lenihan  
United States Magistrate Judge

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